U.S. Department of Labor

Office of Administrative Law Judges
800 K Street, NW, Suite 400-N
Washington, DC 20001-8002

(202) 693-7300
(202) 693-7365 (FAX)

Issue date: 07Jan2002

CASE NO.: 2001-STAA-0057

In the Matter of:

JOHN J. RIEBSAME,
Complainant,

v.

PULLEN BROTHERS, INC.,
Respondent.

FINAL ORDER APPROVING SETTLEMENT AND DISMISSING CASE

The instant case has been brought under the employee protection provisions of the Surface Transportation Assistance Act, 49 U.S.C. §31105 ("STAA"). Complainant challenged the findings and order of the Secretary dated July 19, 2001 with respect to his complaint. Both parties are unrepresented.

By my Order Canceling Hearing of August 23, 2001, I canceled the hearing scheduled in this case for August 31, 2001, upon the request of the parties. Complainant Riebsame advised in a facsimile communication of August 20, 2001 that he had "resolved this matter with Jerry Pullen who is the Owner/President of Pullen Brothers Inc." In my Order, I referred the parties to the specific provisions in the regulations governing withdrawals of claims [29 C.F.R. § 1978.111(c)] and settlement of claims [29 C.F.R. § 1978.111(d)(2)] and ordered that "the Complainant shall submit either an unopposed request for withdrawal of his objections and dismissal of the case, or a settlement agreement entered into by both parties, to the undersigned for approval, as soon as practicable." In response, I received a copy of an August 24, 2001 letter to Mr. Riebsame from Pullen Brothers verifying "settlement" and referencing "a copy of the EFS check that you received for final settlement," to which the first page of an Employment History and a copy of a check authorization record referencing a check payable to "John Ribsame (sic)" for $173.00 were attached.

On November 2, 2001, I issued a second order, in which I noted that the parties had not complied with my prior order and I ordered that within thirty (30) days, the parties submit an executed settlement agreement for approval or show cause why this matter should not be renoticed for a hearing. In a response sent by facsimile on December 4, 2001, Respondent Pullen Bros. submitted a letter from its President, Jerry Pullen, summarizing the terms of the settlement and indicating that Complainant John

J. Riebsame was given $173.33 (consisting of "$75.00 for no check call fees [i.e., fines for his failing to call in] and $98.33 for a shortage deducted from his performance bond") and his work history reflected nothing adverse. Complainant Riebsame also submitted a response filed on December 4, 2001, indicating that "[t]here has been a fully implemented agreement settling the issues involved in this action by the Parties" and further stating that "the Complainant now moves the Court to sign an Order accepting his motion to withdrawal [*sic*] this matter from the court."

Under pertinent parts of 29 C.F.R. § 1978.111(c), relating to withdrawal of STAA cases:

> (c) At any time before the findings or order become final, a party may withdraw his objections to the findings or order by filing a **written withdrawal** with the administrative law judge. . . The judge . . . shall affirm any portion of the findings or preliminary order with respect to which the objection was withdrawn. [Emphasis added.]

The regulations relating to settlements of STAA cases provide, in pertinent part:

> (2) ***Adjudicatory settlement***. At any time after the filing of objections to the Assistant Secretary's findings and/or order, the case may be settled if the participating parties agree to a settlement and such settlement is approved by . . . the ALJ [the administrative law judge to whom the matter has been assigned]. A copy of the settlement shall be filed with the ALJ . . . .

29 C.F.R. § 1978.111(d)(2). Although a recommended dismissal order must be forwarded for approval by the Administrative Review Board, administrative law judge decisions approving proposed settlement agreements become final without such review or approval. *See Rick Jackson v. All American Transport*, 2001-STA-00002 (ALJ April 4, 2001) (Paul H. Teitler) *citing, inter alia, Pettit v. Des Moines Asphalt & Paving Co.*, 1996-STA-3 (ARB Dec. 30, 1996).

Although the settlement agreement has not been reduced to a single writing signed by both parties, both parties assert that they have settled this matter and the terms of the settlement have been summarized in writing in a letter by Respondent's President as well as in supporting documentation submitted along with the letter. Although the Complainant has also discussed withdrawal in his response, that same document references a settlement, and it is clear that the intent of the parties is to settle this matter, and the terms of the settlement are also clear. As the parties are not represented by counsel, they are entitled to some latitude with respect to the submissions they make to this tribunal.

Having reviewed the terms of the proposed settlement, as summarized in Mr. Pullen's letter of December 4, 2001, filed by facsimile on that same date, I find that the settlement is fair, reasonable, and adequate, and that it should be approved. Accordingly,

ORDER

IT IS HEREBY ORDERED, that the settlement between the parties be, and hereby is, **APPROVED**, and this case be, and hereby is, **DISMISSED WITH PREJUDICE**.

A
PAMELA LAKES WOOD
Administrative Law Judge

Washington, D.C.